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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,646	07/19/2001	John P. Biel JR.	BEN02P-346	8649

277 7590 10/05/2004

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EXAMINER

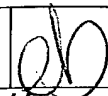
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ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/889,646	BIEL ET AL.
	Examiner	Art Unit
	Hien Tran	1764 

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,8-14 and 17-57 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,9-14,33-36,39-43,47, 51-54,56 and 57 is/are allowed.
- 6) ☒ Claim(s) 17-32,37,38,44-46,48-50 and 55 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/19/01</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 49" (page 9, line 28); 97' and 97" (page 13, lines 2-4); 27A, 33A, 37A, 47A (page 17, lines 23-24); 133 (page 18, line 7); 130A (page 18, line 10); 221HH (page 20, line 32); 26 HH (page 21, line 5). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to because in Fig. 28 "26JJ" should be pointed to the cavity, not the outer housing; in Fig. 1 both 32 and 32' are pointed to the same element. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and

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appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the drawings to comply with CFR 1.84(p)(5), e.g. they should include the reference sign(s) mentioned in the specification and vice versa.

Specification

4. The disclosure is objected to because of the following informalities:

On page 12, lines 7-8 "inner and outer tubes 46 and" should be changed to --outlet tube section 46 and reinforcement tube-- for consistency; in line 15 --or catalyst substrate-- should be inserted before "27"; in line 17 "42" should be changed to --92-- (note line 18).

On page 13, lines 17-21, it is unclear as to what SAES St707 and SAES St101 stand for, whether they are trademarks. It should be noted that the trademark should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

On page 13, line 32 "lip 102" should be changed to --lip 102'-- (note line 30); in line 33 --or extruded material or extruded neck-- should be inserted before "103" (note line 30 and also page 14, line 22).

On page 14, line 9 --or hydrogen source device-- should be inserted before "32".

On page 17, line 21 --or catalyst substrate-- should be inserted before "27A"; in line 24 --or bellows-- should be inserted before "38A" and in line 28 --or multi-layer radiation shield-- should be inserted before "130" for clarity and consistency.

On page 18, line 2 --material-- should be inserted before "131"; in line 5 "21" should be changed to --21A--.

On page 19, line 27 it is unclear as to whether the shield 141 is the same as to the passages 141 set forth in lines 16-17.

On page 20, line 32 "221HH" should be changed to --22HH--.

On page 21, lines 21, 23, 29 and page 22, line 1, the reference 32II' should be changed to --32II--; in line 30 --section-- should be inserted after "tube".

On page 22, line 33 "22I" should be changed to --22II--.

On page 23, line 29 --or catalyst substrate-- should be inserted after "material".

On page 25, line 5 --or catalytic converter-- should be inserted before "20".

Appropriate correction is required.

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

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Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 17-32, 37-38, 44-46, 48-50, 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 17, line 5 “the hydrogen” has no clear antecedent basis. See claims 21, 44, and 48 likewise.

In claim 25, lines 1-2 “the vacuum space” has no clear antecedent basis. See claims 45 and 49 likewise.

In claim 30, line 2 “the phase change material” has no clear antecedent basis. See claims 46, and 50 likewise.

In claim 37, line 1 “the porous member” has no clear antecedent basis. See claim 38 likewise.

In claim 55, lines 1-2 “the confined space” and “the containment ring” have no clear antecedent basis.

Allowable Subject Matter

8. Claims 6, 9-14, 32-36, 39-43, 47, 51-54, 56-57 are allowed.

9. Claims 17-32, 37-38, 44-46, 48-50, 55 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is an examiner's statement of reasons for allowance: The prior art of record does not teach an exhaust treatment device with all of the specific of the vacuum maintenance device and the variable insulator device as claimed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Minami et al is cited for showing state of the art.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien Tran whose telephone number is (571) 272-1454. The examiner can normally be reached on Tuesday-Friday from 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hien Tran

HT

October 1, 2004

Hien Tran
Primary Examiner
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